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EXTRAORDINARY

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PART II—Section 2

प्रतिष्ठा से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 21st February, 1968:—

BILL NO. 4 OF 1968

A Bill to declare the Khuda Bakhsh Oriental Public Library at Patna to be an institution of national importance and to provide for its administration and certain other connected matters.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

- 5 1. (1) This Act may be called the Khuda Bakhsh Oriental Public Library Act, 1968. Short title and commencement.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint.

Declara-
tion of
Khuda
Bakhsh
Oriental
Public
Library
as an
institution
of nation-
al impor-
tance.

2. It is hereby declared that the Khuda Bakhsh Oriental Public Library at Patna in the State of Bihar is an institution of national importance.

Defini-
tions.

3. In this Act, unless the context otherwise requires,—

(a) "Board" means the Board established under section 4; 5

(b) "Chairman" means the Chairman of the Board;

(c) "deed of trust" means the deed of trust No. 217 executed in the office of the Deputy Registrar of Patna by the late Maulvi Khuda Bakhsh Khan Bahadur of Muradpur on the 14th January, 1891; 10

(d) "Fund" means the Fund referred to in section 19;

(e) "library" means the Khuda Bakhsh Oriental Public Library declared to be an institution of national importance under this Act; 15

(f) "member" means a member of the Board and includes the Chairman;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "State Government" means the Government of Bihar. 20

CHAPTER II

THE KHUDA BAKHSH ORIENTAL PUBLIC LIBRARY BOARD

Establish-
ment and
incorpora-
tion of
Board.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established for the purposes of this Act, a Board to be known as the Khuda Bakhsh Oriental Public Library Board. 25

(2) The Board shall be a body corporate with the name afore-said, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and contract, and may, by that name, sue and be sued. 30

Composi-
tion of
Board.

5. (1) The Board shall consist of the following persons, namely:—

(a) the Governor of Bihar, *ex officio*, Chairman;

(b) the Accountant General, Bihar, *ex officio*;

(c) a person to be nominated by the Central Government, who shall be a member of the family of the late Maulvi Khuda Bakhsh Khan Bahadur of Muradpur;

5 (d) eight persons, four each to be nominated by the Central Government and the State Government, who shall, as far as possible, be persons having knowledge of, and experience in, matters relating to the administration of libraries;

(e) the Director, Khuda Bakhsh Oriental Public Library, *ex officio* Member—Secretary.

10 (2) Every nomination under this section shall take effect as soon as it is notified by the Central Government in the Official Gazette.

6. (1) The terms of office of nominated members shall be such as may be prescribed. Term of office and fresh

15 (2) Any nominated member may resign his office by giving notice in writing to the Central Government, and on such resignation being notified by the Central Government in the Official Gazette, shall be deemed to have vacated his office. nomination in certain cases.

(3) A casual vacancy created by the resignation of a nominated member under sub-section (2) or for any other reason may be filed by fresh nomination by the Central Government or the State Government, as the case may be, and a member so nominated shall hold office for the remaining period for which the member in whose place he is nominated would have held office.

25 (4) An outgoing member shall be eligible for renomination.

(5) If any nominated member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his office, the Central Government or the State Government, as the case may be, may nominate another person to act in his place during his absence.

7. No act of the Board shall be invalid merely by reason of— Vacancies, etc., not to invalidate acts.

(a) any vacancy in, or defect in the constitution of, the Board, or

35 (b) any defect in the nomination of a person acting as a member thereof, or

(c) any irregularity in its procedure not affecting the merits of the case.

Duty of Government nominating persons, etc.

8. (1) Before nominating a person to be a member of the Board, the Central Government or the State Government, as the case may be, shall satisfy itself that the person will have no such financial or other interest as is likely to affect prejudicially the exercise or performance by him of his functions as a member, and the Central Government or the State Government, as the case may be, shall also satisfy itself from time to time with respect to every member nominated by it that he has no such interest; and any person who is or whom the Central Government or the State Government, as the case may be, proposes to nominate and who has consented to be, a member shall, whenever requested by the Central Government or the State Government so to do, furnish to it such information as that Government considers necessary for the performance by it of its duties under this sub-section.

(2) A nominated member who is in any way, directly or indirectly, interested in a contract made or proposed to be made, by the Board shall, as soon as possible, after relevant circumstances have come to his knowledge, disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the Board and the member shall not take any part after the disclosure in any deliberation or decision of the Board with respect to that contract.

Meetings of Board.

9. (1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2), (3) and (4), observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made under this Act.

(2) The Chairman or, in his absence, any member chosen by the members present from among themselves, shall preside at a meeting of the Board.

(3) If any nominated member, being an officer of Government, is unable to attend any meeting of the Board, he may, with the previous approval of the Chairman, authorise any person in writing to do so.

(4) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairman or, in his absence, the member presiding, shall have a second or casting vote.

Temporary association of persons with Board for particular purposes.

10. (1) The Board may associate with itself in such manner and for such purposes as may be provided by regulations made under this Act, any person whose assistance or advice it may desire in performing any of its functions under this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have the right to take part in the discus-

sions of the Board relating to that purpose, but shall not, by virtue of this section, be entitled to vote.

11. All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of an officer of the Board authorised in like manner in this behalf.

Authenti-
cation of
orders
and other
instru-
ments
of Board.

12. (1) Subject to the provisions of sub-section (2), the Board may, for the purpose of enabling it efficiently to perform its functions under this Act, appoint such number of officers and other employees as it may think fit.

Staff of
Board.

(2) The recruitment and conditions of service of such officers and employees shall be such as may be provided by regulations made under this Act.

13. Subject to the provisions of this Act, every person employed in the library immediately before the date of establishment of the Board shall, on and from such date, become an employee of the Board with such designation as the Board may determine and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions as he would have held the same on such date if the Board had not been established and shall continue to do so unless and until his employment in the Board is terminated or until such tenure, remuneration and terms and conditions are duly altered by the Board:

Transfer
of service
of existing
emplo-
yees to
Board.

Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.

14. The library shall be located at Patna.

Location
of
library.

CHAPTER III

PROPERTY, LIABILITIES AND FUNCTIONS OF THE BOARD

Property
and liabi-
lities of
Board.

15. (1) On the establishment of the Board—

(i) all properties, funds and dues which are vested in, or realisable by, the trustees of the library constituted by the deed of trust, in their capacity as such, shall vest in, and be realisable by the Board; and

(ii) all liabilities in relation to the library which are enforceable against the said trustees, shall be enforceable only against the Board.

(2) All properties, which may, after the establishment of the Board, be given, bequeathed or otherwise transferred to the library or acquired by the Board, shall vest in the Board.

Duties of Board.

16. (1) Subject to the provisions of the deed of trust, it shall be the general duty of the Board to manage the library and to plan, promote, organise and implement programmes for the development of the library on modern scientific lines and to perform such other functions as the Central Government may, from time to time, assign to the Board. 5

(2) In particular and without prejudice to the generality of the foregoing provision, the Board may take such steps as it thinks fit— 10

(a) for providing for instruction and research in matters relating to libraries and for the advancement of learning and dissemination of knowledge in such matters; and 15

(b) to do all such other things as may be necessary for the discharge of its functions under this Act.

Powers of Board.

17. (1) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may exercise all such powers as may be necessary or expedient for the purpose of carrying out its duties under this Act. 20

(2) Subject to such regulations as may be made by the Board in this behalf, the Board may from time to time purchase or otherwise acquire such manuscripts, books, articles or things as may, in the opinion of the Board, be worthy of preservation in the library. 25

CHAPTER IV

FINANCE, ACCOUNTS, AUDIT AND REPORTS

Grants by Central Government to Board.

18. For the purpose of enabling the Board to discharge its functions efficiently under this Act, the Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board in each financial year such sums of money as that Government considers necessary by way of grant, loan or otherwise. 30

Fund of Board.

19. (1) The Board shall maintain a Fund to which shall be credited—

(a) all moneys paid by the Central Government; 35

(b) such sums of money as the State Government may pay annually having regard to its resolution No. V/L 4055/60E 120 dated the 26th September, 1962;

(c) all fees and other charges levied under this Act;

(d) all moneys received by the Board by way of grant, gift, donation, benefaction, bequest, subscription, contribution or transfer;

5 (e) all other moneys received by the Board in any other manner or from any other source.

(2) The Board may expend such sums as it thinks fit for performing its functions under this Act and such sums shall be treated as expenditure payable out of the Fund.

10 (3) A sum of money not exceeding such amount as may be provided by regulations made under this Act may be kept in current account with any scheduled bank as defined in section 2 of the Reserve Bank of India Act, 1934, or any other bank approved by the Central Government in this behalf, but any moneys in excess of that
2 of 1934. 15 sum shall be deposited in the Reserve Bank of India or with the agents of the Reserve Bank of India or invested in such manner as may be approved by the Central Government.

20 20. (1) The Board shall, by such date in each year as may be specified by the Central Government, submit to it for approval a budget for the next financial year in the form specified by it, showing the estimated receipts and expenditure, and the sums which would be required from the Central Government during that financial year.

25 (2) If any sum granted by the Central Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the Central Government for that year.

30 (3) Subject to the provisions of sub-section (4), no sum shall be expended by or on behalf of the Board, unless the expenditure is covered by provision in the budget approved by the Central Government.

35 (4) Subject to such conditions and restrictions as the Central Government may think fit to impose, the Board may sanction any reappropriation from one head of expenditure to another or from a provision made for one purpose to that for another purpose.

21. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts including the balance sheet in such form as may be specified, and in accordance
Accounts and audit.

with such general directions as may be issued by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited annually by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India. 5

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts, and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect the office of the Board, and the library. 10 15

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament. 20

Returns
and
reports.

22. (1) The Board shall furnish to the Central Government at such time and in such form and in such manner as the Central Government may direct such returns, statements and particulars as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as possible after the commencement of each financial year, submit to the Central Government within such time as may be specified by the Central Government a report giving true and full account of the activities of the Board during the previous financial year and an account of activities likely to be undertaken during the current financial year. 25 30

CHAPTER V

MISCELLANEOUS

Power of
Central
Govern-
ment to
issue
directions
to Board.

23. (1) In the discharge of its functions under this Act, the Board shall be bound by such directions on questions of policy as the Central Government may give to it from time to time: 35

Provided that the Board shall be given an opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final. 40

24. The Board may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it shall, in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged also by any member, officer or employee of the Board specified in this behalf in the order.

Delegation of powers and duties.

25. All officers and employees of the Board shall when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made thereunder, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Officers and employees of Board to be public servants.

26. No suit, prosecution or other legal proceeding shall lie against the Board or any member, officer or employee of the Board for anything which is in good faith done or intended to be done in pursuance of this Act or of any rule or regulation made thereunder.

Protection of action taken under the Act.

27. (1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act:

Power of Central Government to make rules.

Provided that when the Board has been established, no such rules shall be made without consulting the Board.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of, and the manner of filling casual vacancies among, the members nominated under clauses (c) and (d) of sub-section (1) of section 5;

(b) the travelling and other allowances payable to a member other than the Chairman and to a person associated with the Board under section 10;

(c) the disqualifications for membership of the Board and the procedure to be followed in removing a member who is or becomes subject to any disqualification;

(d) the conditions subject to which, and the mode in which, contracts may be entered into by or on behalf of the Board;

(e) any other matter which has to be or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry

of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 5

Power of Board to make regulations.

28. (1) The Board may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations, not inconsistent with this Act and the rules made thereunder, for enabling it to discharge its functions under this Act. 10

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the conditions and restrictions subject to which manuscripts and books in the library may be used 15

(b) the manner in which, and the purposes for which, persons may be associated with the Board;

(c) the time and place of meetings of the Board, the procedure to be followed in regard to the transaction of business at such meetings and the quorum necessary for the transaction of business at a meeting; 20

(d) the maintenance of minutes of meetings of the Board and the transmission of copies thereof to the Central Government; 25

(e) the recruitment and conditions of service of officers and other employees of the Board;

(f) the persons by whom and the manner in which, payments, deposits and investments may be made on behalf of the Board; 30

(g) the maximum amount that may be kept in the current account;

(h) the maintenance of registers and accounts;

(i) the compilation of catalogues and inventories of the manuscripts, books and other articles and things in the library; 35

(j) the steps to be taken for the preservation of the manuscripts, books and other articles and things in the library;

(k) the general management of the library;

(l) the fees and other charges to be levied for the use of manuscripts and books in the library;

5 (m) any other matter in respect of which provision is, in the opinion of the Board, necessary for the performance of its functions under this Act.

(3) The Central Government may, after consultation with the Board, by notification in the Official Gazette, amend, vary or rescind any regulation which it has approved; and thereupon the regulation
10 shall have effect accordingly, but without prejudice to the exercise of the powers of the Board under sub-sections (1) and (2).

STATEMENT OF OBJECTS AND REASONS

The Khuda Bakhsh Oriental Public Library, Patna, was built out of the valuable personal collections of Arabic and Persian manuscripts and books of the late Maulvi Muhammad Bakhsh Khan. Later on his son, the late Khuda Bakhsh, added to this collection. In 1891 Maulvi Khuda Bakhsh executed a deed of trust appointing the then Government of Bengal as trustees for the management of the Library. The Government of Bihar (as successor Government) are now the trustees. At present the Khuda Bakhsh Oriental Public Library, Patna, is being administered by a Board of Management set up by the Government of Bihar in consonance with the terms of the deed of trust and in consultation with the Central Government.

The Government of Bihar have agreed to transfer the control of the Library to the Central Government on the following conditions:—

- (i) that the Library or any of its possessions should not be removed outside the limits of the Patna Municipal Corporation;
- (ii) that the State Government is given an adequate representation in the Managing Body of the Library; and
- (iii) that the State Government's share of expenditure should not exceed Rs. 50,000 per annum.

The present premises of the Library will be handed over by the Government of Bihar to the Central Government free of cost.

Having regard to the importance and value of the collections in the Library and to the need for reorganising and developing the Library on modern scientific lines, it is considered that it should be declared to be an institution of national importance under entry 62 in List 1 of the Seventh Schedule to the Constitution. The Bill seeks to give effect to this proposal and makes provision mainly for the following:—

- (1) the establishment of a Board consisting of twelve persons for the administration of the Library and the vesting in the Board of the property of the Library;
- (2) transfer of the existing staff to the Board;

(3) the issue of directions by Government to the Board in the discharge of its functions, the submission by the Board of annual budget estimates and reports to Government, the deposit of funds in the Reserve Bank, etc., and the annual audit of the accounts of the Board by the Comptroller and Auditor General of India.

NEW DELHI;

TRIGUNA SEN.

The 1st December, 1967.

FINANCIAL MEMORANDUM

Clause 17(2) of the Bill empowers the Board to purchase or otherwise acquire such manuscripts, books, articles or things as may, in the opinion of the Board, be worthy of preservation in the Library. Clause 18 confers power on the Central Government to pay to the Board in each financial year such sums of money as it may think fit to enable the Board to discharge its functions efficiently. The State Government of Bihar have agreed to meet an expenditure of Rs. 50,000 per annum on the maintenance of the Library.

2. The present premises of the Library will be handed over by the Government of Bihar to the Central Government free of cost. The question of Government of India bearing the capital cost towards the construction of the building, etc., may be considered at a later stage on the recommendation of the Board of Management. It may be necessary to provide more accommodation after the control of the Library is assumed by the Central Government through the Board of Management. Its immediate need may be met by a small extension of the existing building. Provision for equipment and air-conditioning may also have to be made. Tentative estimates for the former place the figure at Rs. 3,00,000; while for the latter also the same figure is indicated.

3. A recurring expenditure of about Rs. 1,00,000 on the maintenance of the Library will also be borne by the Government of India. This is in addition to the contribution of the Government of Bihar towards recurring expenditure @ Rs. 50,000 per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Act. The matters in respect of which such rules may be made relate to the term of office of members and the manner of filling casual vacancies among them, the allowances payable to members other than the Chairman and to persons associated under clause 10, the disqualification for membership of the Board and the procedure to be followed in removing members subject to disqualification, the conditions subject to which and the mode in which contracts may be entered into by or on behalf of the Board. All these matters are comparatively of a minor importance and are normally the subject-matter of delegated legislation, and the rules will also be laid before Parliament.

2. Clause 28 of the Bill empowers the Board to make regulations not inconsistent with the provisions of the Act and the rules made thereunder. The power of making regulations is confined to procedural matters, such as the conditions and restrictions subject to which manuscripts and books in the Library may be used, the recruitment and conditions of service of officers and employees of the Board, the time and place of meetings of the Board, the procedure to be followed at such meetings, the maintenance of minutes of meetings of the Board and the transmission of copies thereof to Government, the maintenance of registers and accounts, the compilation of catalogues and inventories of books, manuscripts, articles and things in the Library, the fees and other charges to be levied, etc. The power of making regulations is thus confined to matters of detail only and this power can be exercised by the Board only with the previous approval of the Central Government.

The delegation of legislative powers is of a normal character.

S. L. SHAKDHER,

Secretary.

